

which the decree passed to be due, and I should most reluctantly permit myself to be influenced, by any evidence they could offer, to believe the contrary.

It is not to be tolerated that parties shall make admissions, and fortify those admissions by the highest of all earthly sanctions, and then be allowed to say that they did not mean that which their language confirmed by the most sacred obligation, to speak the truth, plainly imports.

The argument has been pressed that the proceedings which led to the decree of 1841, and the decree itself, are entitled to less consideration than otherwise they would be, because they all appear to be in the handwriting of the same solicitor. It is true they do appear to be so, but it is equally true that the answer of Joshua and William Hitch is signed by themselves in proper person, and also by another solicitor of this court. And when to this evidence of perfect fairness in the conduct of the cause is added the fact that all the admissions of the answer are sanctified by the solemn oath of the defendants there, it surely would require a weight of evidence infinitely stronger than has been produced here to lead to the conclusion that nothing admitted was true, and that all these proceedings are but a solemn mockery. I have read the evidence carefully, and can find nothing in it to shake the conviction which the answer of 1841 is so well calculated to make, that there was then an ascertained sum due Fenby, consisting partly of advances, &c. then made, and of liabilities which he had assumed for these complainants, and which he afterwards paid.

There are, moreover, other circumstances to be found in the proceedings in the original cause, subsequent to the decree of January, 1841, strongly in opposition to the theory of the present bill, that that decree was not for an ascertained sum, but was only intended as a security for such balance as might be found to be due Fenby upon an adjustment of their dealings thereafter to be made.

It appears, as has been shown, that after the decree was passed, to wit: on the 15th and 29th of September, 1842, petitions were filed by the complainant, Fenby, asking for a mod-